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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 7 June 2016 from the Permanent Mission of Switzerland to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Switzerland to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report prepared by Switzerland pursuant to Security Council resolution 2270 (2016) (see annex).

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Annex to the note verbale dated 7 June 2016 from the Permanent Mission of Switzerland to the United Nations addressed to the Chair of the Committee

Report of Switzerland pursuant to Security Council resolution 2270 (2016)

Pursuant to paragraph 40 of resolution 2270 (2016) of 2 March 2016, Switzerland has the honour to provide to the Security Council Committee established pursuant to resolution 1718 (2006) the following information concerning the implementation of the measures contained in resolution 2270 (2016).

On 18 May 2016, the Swiss Federal Council (the Government) revised the Ordinance instituting measures against the Democratic People's Republic of Korea in order to enforce the United Nations sanctions imposed by resolution 2270 (2016). The Federal Act of 22 March 2002 concerning the implementation of international sanctions (Embargo Act) provides the legal basis for the Ordinance.

Paragraph 6 of resolution 2270 (2016)

Switzerland is enforcing the sanctions provided for in paragraph 8 (a) of resolution 1718 (2006) by means of article 5 of the Ordinance. In order to implement the sanctions provided for in paragraph 6 of resolution 2270 (2016) concerning small arms and light weapons, Switzerland has removed from its Ordinance the exception which allowed the export of such weapons (formerly subparagraph 4 (ter) of article 1).

Paragraph 8

Switzerland is enforcing the sanctions imposed in subparagraphs 8 (a) and 8 (b) of resolution 1718 (2006) by means of articles 5 and 8 of the Ordinance. Paragraph 8 of resolution 2270 (2016) is implemented by an addendum to article 5 of the Ordinance. According to subparagraph 1 (d) of article 5, it is now prohibited to sell, supply, export, transfer and transport items which directly contribute to the development of the operational capabilities of the armed forces of the Democratic People's Republic of Korea. Exceptions to this prohibition are food supplies and medicines, as well as items used strictly for humanitarian purposes.

Paragraph 9

Switzerland is enforcing subparagraph 8 (b) of resolution 1718 (2006) and paragraph 9 of resolution 1874 (2009) by means of article 5 of the Ordinance. This prohibition is set out in new article 4, which prohibits military, police or paramilitary training.

Paragraphs 10 and 11

Switzerland is enforcing the sanctions imposed in subparagraphs 8 (d) and 8 (e) of resolution 1718 (2006) by means of articles 2, 9 and 10 of the Ordinance. On 3 March 2016, the Federal Department of Economic Affairs, Education and Research listed, under annex 1 of the Ordinance, the names of the 16 individuals and 12 entities mentioned in Annex I and Annex II to resolution 2270 (2016). There

are now twenty-eight individuals and 32 entities that are subject to the provisions of articles 2, 9 and 10 of the Ordinance.

Paragraphs 13 and 14

The possibility to expel from Swiss territory diplomats or representatives of the Government of the Democratic People's Republic of Korea, other nationals of that country, or other persons acting on behalf of or at the direction of the aforementioned individuals has not been regulated in the Ordinance, since Switzerland already has several legal bases providing such means.

Paragraph 17

New article 3 of the Ordinance prohibits nationals of the Democratic People's Republic of Korea from receiving training at Swiss universities or colleges in the educational disciplines listed in paragraph 17 of resolution 2270 (2016). The prohibition does not apply to studies leading to a bachelor's degree.

Paragraph 18

New article 17 of the Ordinance provides for import, export and transit controls on all items transported to or from the Democratic People's Republic of Korea. Such items subject to a freeze may be seized or confiscated.

Paragraphs 19 to 21

New subparagraph 1 of article 15 of the Ordinance prohibits the conclusion of contracts with the Democratic People's Republic of Korea for the charter or lease of aircraft and vessels registered in Switzerland, or the provision of crew services.

New subparagraph 2 of article 15 expands the scope of that prohibition to include the individuals and entities listed in Annex 1 of the Ordinance as well as other individuals, companies and entities violating the provisions of the Ordinance or acting on behalf of or at the direction of sanctioned individuals, companies or entities.

The calls made on Member States in paragraph 19 of resolution 2270 (2016), namely, to de-register vessels belonging to the Democratic People's Republic of Korea and not to register any such vessel that is de-registered by another Member State, have not been implemented by the Ordinance. In fact, such registrations do not exist in Switzerland and, in view of the relevant existing legislation, would not be permitted.

New subparagraph 3 of article 15 implements the provisions of paragraph 20 of resolution 2270 (2016) by prohibiting vessels from being registered in the Democratic People's Republic of Korea; authorization being obtained for a vessel to use the flag of the Democratic People's Republic of Korea; the owning, leasing or operating of a vessel flagged by the Democratic People's Republic of Korea; or the provision of associated services, including insurance.

New subparagraphs 4 and 5 of article 15 implement the provisions of paragraph 21 of resolution 2270 (2016). The right of any aircraft to take off from, land in or overfly Swiss territory is denied if there are grounds to believe that the aircraft contains items whose sale, supply, export or transfer violate the Ordinance. These prohibitions do not apply in the case of an emergency landing or a landing for inspection.

Paragraph 22

Paragraph 22 of resolution 2270 (2016) does not apply to Switzerland as it is a landlocked country.

Paragraph 23

The provisions of paragraph 23 of resolution 2270 (2016) are implemented by an addendum to article 9 of the Ordinance, which, in new annex 6, defines vessels as frozen economic resources in accordance with article 9 of the Ordinance.

Paragraph 27

The provisions of paragraph 27 of resolution 2270 (2016) are implemented by an addendum to article 5 of the Ordinance. Accordingly, subparagraph 1 (c) of article 5 prohibits the sale, supply, export, transfer and transport of any items to the Democratic People's Republic of Korea that could contribute to the nuclear ballistic missile programmes or other weapons of mass destruction programmes.

Paragraphs 29 and 30

New article 7 of the Ordinance implements the prohibitions and exceptions in paragraphs 29 and 30 of resolution 2270 (2016). Article 7 prohibits the procurement, purchase, import, transfer and transport of the raw materials contained in annex 4 of the Ordinance (coal, iron, iron ore, gold, titanium ore, vanadium ore and rare earth minerals) from the territory of the Democratic People's Republic of Korea.

Paragraph 31

The provisions of paragraph 31 of resolution 2270 (2016) are implemented by new article 6 of the Ordinance. It prohibits the export or supply of specific aviation fuels listed in annex 3 to the Ordinance.

Paragraph 32

The provisions of paragraph 32 of resolution 2270 (2016) are implemented by an addendum to article 9 of the Ordinance. Subparagraph 2 of article 9 provides for an assets freeze on government institutions of the Democratic People's Republic of Korea, the Workers' Party and individuals, companies and entities acting on behalf of or at the direction of the aforementioned institutions, if such assets are associated with nuclear or ballistic missile programmes or other activities prohibited by the Ordinance.

Paragraph 33

The provisions of paragraph 33 of resolution 2270 (2016) are implemented by new article 11 of the Ordinance. Article 11 provides that the opening and operation of subsidiaries, branches or representative offices of banks of the Democratic People's Republic of Korea in Switzerland are prohibited. In accordance with subparagraph 2 of this article, it is prohibited for financial institutions in Switzerland to establish joint ventures with or take an ownership interest in or establish or maintain correspondent relationships with banks of the Democratic People's Republic of Korea.

Subsidiaries, branches and representative offices of banks of the Democratic People's Republic of Korea in Switzerland shall be closed by 2 June 2016.

Paragraphs 34 and 35

The provisions of paragraphs 34 and 35 of resolution 2270 (2016) are implemented by new article 12 of the Ordinance. The opening of subsidiaries, branches or representative offices of Swiss banks in the Democratic People's Republic of Korea is prohibited.

Subsidiaries, branches, representative offices and Swiss bank accounts opened in the Democratic People's Republic of Korea shall be closed by 2 June 2016 if there are sufficient grounds to believe that such financial services could contribute to the nuclear or ballistic missile programmes of the Democratic People's Republic of Korea or other activities prohibited by the Ordinance.

Paragraph 36

The provisions of paragraph 36 of resolution 2270 (2016) are implemented by an addendum to article 13. In addition, article 13 prohibits financial support for trade with the Democratic People's Republic of Korea where such support could contribute to the nuclear or ballistic missile programmes of the Democratic People's Republic of Korea or other activities prohibited by the Ordinance.

Paragraph 37

Switzerland is enforcing the provisions of paragraph 11 of resolution 2094 (2013) by means of the Ordinance. The provisions of paragraph 37 of resolution 2270 (2016) are implemented by an addendum to article 10, which specifically includes gold in the category of economic resources.

Paragraph 39

Switzerland is enforcing paragraph 8 (a) (iii) of resolution 1718 (2006) by means of article 8 of the Ordinance. The items subject to these restrictions are contained in annex 5 of the Ordinance.

The updated version of the Ordinance, dated 18 May 2016, and the annexes thereto are attached to the present report.[a]

[a] The text of the Ordinance is on file with the Secretariat and is available for consultation.